City of Seattle
Gregory J. Nickels, Mayor

Department of Planning and Development
Diane M. Sugimura, Director

CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number: 3003744

Applicant Name: Helen Maib of Johnson Architecture for City Investors VII LLC

Address of Proposal: 401 Ninth Avenue North

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a six story, 99 unit apartment building with ground floor retail. Vehicle parking for 105 spaces will be provide by 11 spaces on level 1 and 94 spaces in a below-grade garage.

The following approvals are required:

Design Review pursuant to Seattle Municipal Code (SMC) 23.41
Departures from the Land Use Code as follows:

1. SMC 23.48.020.A (Residential Amenity Area)

SEPA – Environmental Determination pursuant to SMC 25.05

SEPA Determination: [ ] Exempt [ ] DNS [ ] MDNS [ ] EIS

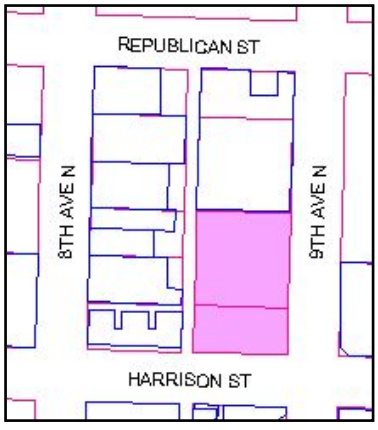
[ ] DNS with conditions

[X] DNS involving non-exempt grading, or demolition, or another agency with jurisdiction.

BACKGROUND DATA

Site and Vicinity Description

The site consists of three parcels located at 401 Ninth Avenue North and occupying a one-quarter block area at the northwest corner of Ninth Avenue North and Harrison Street. The project site is bounded by Ninth Avenue North to the east, Harrison Street to the south, an existing building to the north, and the 16-foot mid-block alley to the west. The property is approximately 21,600 sq. ft. (.50 acres) and gently slopes north/northeast towards Lake Union by roughly 3.5 percent with an elevation difference of approximately seven feet, but no remarkable topographic features.



The current development on the property consists of a surface parking lot with spaces for roughly 82 vehicles.

The project site is zoned Seattle Mixed with an 85-foot height limit (SM-85). Surrounding properties are all also zoned SM-85.

The pattern of existing land uses surrounding the project site includes a mix of commercial, residential, and service-related uses. North/northwest of the site is the two-block area associated with the proposed South Lake Union Research & Administrative Office Space: Ph. 2 & 3 Development, surface parking lots, and commercial/retail uses. Commercial uses are located northeast of the site and include building and office supply as well as surface parking; land uses east/southeast of the site include office, research & development lab space, surface parking lots, and the Seattle Times complex; south are sign and book publishing companies with other commercial uses and surface parking lots; and west are commercial uses including a sporting goods, camera/photography equipment, hotels, King Broadcasting Studio, a wireless system outlet and surface parking.

In addition, there are several development projects proximate to the project site with approved Master Use Permits. These include:

- *230-8th Ave. N*. (50 apartments, 4,250 sq. ft. of retail, and parking for 35 vehicles);
- *Interurban Exchange 2* (110,000 sq. ft. of office and parking for 159 vehicles)*;*
- *Interurban Exchange 4/5* (290,000 sq. ft. of office and parking for 422 vehicles)*;* and *600 Denny Building* (99,800 sq. ft. of office, 30 residential units, and parking for 350 vehicles).

Proposal Description

The project consists of construction of a 6-story building with two levels of below-grade parking. The proposal anticipates construction of approximately 91,650 square feet of above grade space for residential, retail, and parking uses. Residential use will consist of approximately 99 market rate units. Retail area of approximately 1,520 sq. ft. will be located at street level. Approximately 10,800 sq. ft. of open space, residential amenity area, and other amenities will be provided for building residents. The existing 16-foot wide mid-block alley directly west of the project site will be widened to 18 feet. Ingress and egress to the parking area will be via the mid-block alley. Project design and landscaping will include the addition of street trees and shrubs along Ninth Avenue and Harrison Street. Construction of the project will require removal of the existing surface parking.

Public Review and **Comment Periods**

Two Design Review meetings were held on this proposal and included opportunities for the public to comment; an Early Design Guidance meeting was held on December 14, 2005 and the Recommendation meeting was held on May 3, 2006. Public notice of the Master Use Permit (MUP) project application was given on March 9, 2006. The public comment period ended on March 22, 2006. DPD received one written comment on this proposal. The public's comments and the applicant's response are incorporated into this decision. Refer to the Master Use Permit (MUP) file for details.

ANALYSIS – DESIGN REVIEW

ARCHITECTURE PRESENTATION—*Early Design Guidance Meeting – December 14, 2005*

At the Early Design Guidance Meeting, architect Steve Johnson presented the vicinity's architectural context, the site's challenges and opportunities and three alternative development schemes. The first scheme proposed a research/lab type of building utilizing maximum FAR and the maximum building height of 105 feet. Building façades are set at the property line. Upper level setbacks are shown along Harrison per code.

The second alternative proposed a multi-family residential building satisfying the development standards. It shows an L-shaped building, appropriate for multi-family residential development, with building façades set at the property line, and upper level setbacks as required by code.

The third and preferred scheme proposed a building that is setback from the property line along Harrison, and also setback along 9th with the exception of the commercial space at the corner. These setbacks will be used to create private terraces for the at-grade residential units, which will provide a defensible zone to enhance security and privacy for these units. Following existing grade, the units along 9th Avenue will have raised stoops, while those along Harrison will have lowered private terraces. Residential amenity space in the form of two roof terraces will be provided at the second and fourth levels of the building.

The preferred scheme features several floors of over height 'loft' style units with large areas of glazing. This will help give the building a more industrial, 'strong shouldered' feel that is in keeping with the older development in the neighborhood.

The applicant did not identify any design departures at this time.

Public Comment—*Early Design Guidance Meeting – December 14, 2005*

Approximately eight members of the public attended the Early Design Guidance meeting. They offered the following comments:

- The project would be a good addition to the neighborhood.
- The neighborhood needs more residential development.
- An adjacent neighbor expressed concern about the height and bulk of building, as well as construction disruption.
- How will the project encourage sustainability?
- Will parking currently provided by the parking lot be replaced?

ARCHITECT'S PRESENTATION—*Recommendation Meeting – May 3, 2006*

At the Recommendation meeting May 3, 2006, the owner's representative, Charlie Laboda, introduced the team. Architect Steve Johnson (Johnson Architecture & Planning) recapped the Early Design Guidance and how the project design has responded to the guidance.

The early design guidance was as follows:

- The Harrison street frontage should be considered a primary façade on a pedestrian-oriented "Heart Location" in the neighborhood. *(Guideline A-1)*
- The design of the ground-related residential units on 9th Ave. should allow for the possible future conversion to commercial/retail uses. *(Guideline A-2)*

- The primary building entry should be well defined. *(Guideline A-2)*
- The building should recognize the corner lot location and public street front. *(Guideline A-2)*
- The building should recognize the existing industrial context. *(Guideline A-10)*
- The top of the building should be given design treatment to create visual interest and the roof should be considered as a "fifth façade" while incorporating it into the overall building design. *(Guideline B-1)*

Steve Johnson walked through the plans and elevations, describing the project. He summarized how the proposed design specifically addressed the board's guidance in each area.

- The building's massing has been changed to create a more frontal appearance on Harrison. *(Guideline A-2)*
- An alternate plan for the 9th Ave ground floor spaces was presented to show the possibility of future commercial uses. An example of a similar set back retail/commercial was presented to the board. *(Guideline A-2)*
- The building entry has been defined by a projecting canopy, paving and by a dramatic color change in the recessed area above the entry. *(Guideline A-2)*
- The pedestrian orientation of the corner retail space has been enhanced by setting the building back to provide for outdoor seating space. *(Guideline A-10)*
- The industrial context is referenced by the rigorous building façade design and materials choices. *(Guideline C-1)*
- The building top has been provided interest by changes in materials and by projecting fins forming sun screens for the upper residences. The roofscape has been kept clean, with few projections. A recessed light court serving the top floor will provide for plantings to be seen from above. *(Guideline C-1 and C-2)*

Steve Johnson noted that the proponent was asking for one design departure. With the change in the massing of the building along Harrison, a roof terrace that helped meet the 5% amenity space requirement was lost. A departure allowing a reduction of the amenity space from 5% to approximately 3% is requested.

Clarifying Questions from the Board:

Are the sun-shading devices functional or ornamental? They screen the upper portion of the two-story windows on the upper units.

Does the entire canopy project forward from the façade? Yes.

Can the horizontal striations shown on the façade be achieved with the proposed materials? The detailing of materials is being considered but the intent is to maintain the striations as shown.

The requested departure is a result of responding to the DRB's request to increase the façade height along Harrison. Noted.

The revised Harrison street façade is an appropriate response to the EDG recommendations. Noted.

Is the height of the projecting bays dictated by the Land Use Code's upper level setback requirements? The Code was one determinant, but the bays also align with the neighborhood apartment building height and are associated with a particular unit type.

Public Comment—*Recommendation Meeting – May 17, 2006*

Several representatives from the Ivey Imaging, a graphic imaging company adjacent to and across the alley from, the proposed building, spoke. They were concerned about construction impacts that could affect their sensitive printing equipment. They also spoke about potential conflicts between the new building's automobile access points and their loading operations in the alley and along 9th Avenue.

Colin Vasquez, DPD Planner, and Patrick Doherty, DRB Chair, expressed appreciation for their comments but noted that most of their concerns were related to potential environmental impacts and not related to design. The proper recourse for Ivey's concerns should be to Seattle Department of Transportation and Department of Planning and Development.

The DRB asked the applicant if there were other possible locations for garage access. Steve Johnson responded that the access was at the lowest alley elevation and farthest from residential uses, meeting a stated design guideline, and that other locations were substantially less efficient and didn't resolve operational conflicts with Ivey Imaging.

DESIGN GUIDANCE PRIORITIES:

The applicant described the design guideline priorities which had informed their response to site and context in the proposed development. After deliberation, The Design Review Board emphasized the following design guidelines as priorities to be considered in further evolvement of the proposed design. Each design guideline priority is identified by letter and number in accordance with City of Seattle's *Design Review: Guidelines for Multifamily & Commercial Buildings (November 1998)*. This is augmented by neighborhood-specific guidelines published in *South Lake Union: Design Guidelines (May 26, 2005)*.

Comments from the Board's Early Design Guidance (**EDG**) and the Architect's Design Response (**ARCH's DR**) follow each Guideline.

A-1 Responding to Site Characteristics

SLU-Specific Supplemental Guidance: Heart Locations*. Several areas have been identified as "heart locations." Heart locations serve as the perceived center of commercial and social activity within the neighborhood. These locations provide anchors for the community as they have identity and give form to the neighborhood. Development at heart locations should enhance their central character though appropriate site planning and architecture. A new building's primary entry and façade should respond to the heart location. Special street treatments are likely to occur and buildings will need to respond to these centers of commercial and social activity. Amenities to consider are: pedestrian lighting, public art, special paving, landscaping, additional public open space provided by curb bulbs and entry plazas. Harrison Street has been identified as a heart location within South Lake Union.*

EDG: The Board noted that Harrison Street is defined in the South Lake Union Design Guidelines as a '"Heart Location" for this neighborhood, Heart Locations serve as the perceived center of commercial and social activity in the neighborhood. The development of the preferred design, particularly the building's primary façade and entry, should consider ways to respond to this guideline.

One board member wanted to see an alterative façade design present at the next meet for Harrison Street that is compatible with the scale of development anticipated by the applicable Land Use Polices for the surrounding area.

ARCH's DR: Steve Johnson described how the Harrison Street façade was redesigned to emphasize the building's residential and pedestrian character and it's "Heart Location." In response to the DRB recommendation, the massing was increased on Harrison to provide appropriate visual weight. The upper portion was set back and clearly delineated. The sidewalks and planting strips and the building's street facades are treated differently to reflect the pedestrian environment of Harrison Street and the commercial environment of 9th Avenue.

Steve Johnson showed how the raised terrace along 9th Avenue was appropriate for the different character of that street and provided privacy for the street-level residences. He presented an alternate plan for the 9th Avenue ground floor spaces to show the possibility of future commercial uses. 9th Avenue has continuous storefront at the ground floor with separate stoops to individual spaces that can be combined into larger spaces. Level entrance terraces can provide accessibility to the full frontage along 9th Avenue.

See A-2 for discussion of building massing and setbacks.

A-2 Streetscape Compatibility.

The siting of buildings should acknowledge and reinforce the existing desirable spatial characteristics of the right-of-way.

SLU-Specific Supplemental Guidance: *Encourage provision of spaces for street level uses that vary in size, width and depth…Place retail in areas that are conducive to the use and will be successful…Where appropriate, configure retail space so that it can spill-out onto the sidewalk.*

EDG: One board member expressed concern that the amount of vehicular traffic on 9th Avenue North might make at-grade residential development on this frontage problematic. Bob Klug with Seattle City Light explained that 9th Avenue North with be switching to two-way traffic with the completion of the South Lake Union streetcar in 2007, and explained that two-way traffic should help reduce the traffic on this street. As a compromise, the board asked the design team to study how the at-grade residential units along 9th Avenue could have the flexibility for possible conversion to commercial space in the future.

An addition board member expressed concern with the building setback along 9th Avenue North and would like to see an alterative design for the ground level entrances if the abutting interior spaces were to be used for commercial activities.

ARCH's DR: One neighbor has expressed concerns about a potential conflict between the project's ground-level residential units on Ninth Avenue and a nearby loading dock/commercial uses. Although the DRB briefly addressed these units and did not oppose the use of the ground-level on Ninth Avenue for residential occupancy or voice concerns about loading dock proximity, further analysis is warranted to ensure appropriate design compatibility and transition.

The South Lake Union Design Guidelines contemplate the mixed-use nature of the South Lake Union area and are intended to provide for commercial and residential uses in close proximity. *See* South Lake Union Design Guidelines at page IV. Similar to the examples shown in the Design Guidelines, the Ninth Avenue ground-level residences are set back from the building edge by 10 feet and elevated several feet above the sidewalk and street. The elevation of the ground-level residences increases as one walks north on Ninth Avenue towards the loading dock. Individual unit staircases, balconies with planters, and street trees provide further transition between the project and the street, similar to the effect illustrated in the South Lake Union Design Guidelines. *Compare* Master Use Permit Sheets A-0.03, A-1.01, A-3.01 (showing Ninth Avenue ground-level design elements) *with* South Lake Union Design Guidelines at A-6. Noise from the loading dock will occur primarily during business hours, not at night when residents are sleeping. Regular street noise will probably be more noticeable than noise from the loading dock. In light of these factors, the Ninth Avenue ground-level residences should not experience significant conflicts with the nearby loading dock and further mitigation is not required.

The neighbor also expressed concern about the proposed parking garage alley access and potential conflict with other alley uses. This and other transportation-related issues are addressed below in the SEPA section of this decision.

A-5 Respect for Adjacent Sites.

Buildings should respect adjacent properties by being located on their sites to minimize disruption of the privacy and outdoor activities of residents in adjacent buildings.

EDG: A board member noted that the setback on the west portion of the Harrison Street façade did respond to the scale of the adjacent apartment building.

ARCH's DR: Steve Johnson described how the rhythm and height of the projecting bays and the upper level setback create a residentially-scaled and pedestrian-oriented façade that is similar in proportion and height to the adjacent apartment building. The upper level setback occurs at 45' above street level, which is above the perception level of pedestrians on the street.

See A-1 Recom. for discussion on concerns/potential conflicts with an adjacent site.

A-6 Transition Between Residence and Street.

For residential projects, the space between the building and the sidewalk should provide security and privacy for residents and encourage social interaction among residents and neighbors.

SLU-Specific Supplemental Guidance: Consider designing the entries of residential buildings to e4nhance the character of the streetscape through the use of small gardens, stoops and other elements to create a transition between the public and private areas.

EDG: The board generally approved of the ground level setback of the building at the residential units, providing elevated or recessed private terraces and "stoops" for the residences. However, the board would like to see an alternative design that would address how these terraces and "stoops" could be transformed into commercial spaces should the demand/use were to occur.

ARCH's DR: The on-street garden residences have been designed to provide privacy. All residential units along the Harrison façade face Harrison Street. The primary entry into the commercial space is also located on the Harrison façade.

See Guideline A-2 above for the presentation on how the raised terrace on 9th Avenue could be transformed into commercial spaces should the demand occur.

A-10 Corner Lots.

Buildings on corner lots should be oriented to the corner and public street fronts. Parking and automobile access should be located away from corners.

EDG: At the next design review meeting the applicant should be prepared to present how the proposal addresses this particular guideline.

ARCH's DR: The pedestrian orientation of the corner retail space has been enhanced by setting the building back from the property line, providing for outdoor seating space. Entrances and canopies are provided on both the 9th and Harrison street facades. The building material changes at the corner to enhance the different character of the two streets, 9th and Harrison. A planted curb bulge is proposed along Harrison, enhancing the outdoor seating area at the retail space.

B-1 Height, Bulk and Scale Compatibility.

Projects should be compatible with the scale of development anticipated by the applicable Land Use Policies for the surrounding area and should be sited and designed to provide a sensitive transition to the nearby, less-intensive zones.

***SLU-specific supplemental guidance**: Encourage stepping back an elevation at upper levels for development taller than 55 feet to take advantage of views and increase sunlight at street level. When stepping back is not practical or appropriate other design considerations may be considered, such as modulations or separations between structures.*

EDG: The board recognized and appreciated that the preferred design is substantially smaller in bulk and scale than the maximum allowed by code.

ARCH's DR: The Board noted that the Design Guidelines suggest reducing bulk/lightening mass by setting building back at the top. However, it was also noted that the proposed building already includes setbacks and is substantially lower than what the land use code will allow on the site.

See A-2 for discussion of building massing and setbacks.

C-1 Architectural Context.

New buildings proposed for existing neighborhoods with a well-defined and desirable character should be compatible with or complement the architectural character and siting pattern of neighboring buildings.

***SLU-specific supplemental guidance**: Respond to the working class, maritime, commercial and industrial character of the Waterfront and Westlake areas. Examples of elements to consider include:*

Window detail patterns
Open bay doors
Sloped roofs

EDG: The Board would like the applicant to use the existing industrial context and look at the older industrial buildings in the neighborhood for inspiration on materials and detailing.

ARCH's DR: Steve Johnson showed how the building's design has a substantially industrial/commercial character. The 9th Avenue façade is designed to reflect the greater commercial character of that street. Building materials are durable, industrial materials, and include storefront-style windows, metal and cementitious siding panels and concrete. The building's large-scale fenestration is appropriate for both commercial and residential uses.

C-2 Architectural Concept and Consistency.

Building design elements details and massing should create a well proportioned and unified building form and exhibit an overall architectural concept. Buildings should exhibit form and features identifying the functions within the building. In general, the roof line or top of the structure should be clearly distinguished from its façade walls.

***SLU-specific supplemental guidance**: Design the "fifth elevation" – the roofscape- in addition to the streetscape. As this area topographically is a valley, the roofs may be viewed from locations outside the neighborhood such as the freeway or the Space Needle. Therefore, views from outside the area as well as from within the neighborhood should be considered, and roof-top elements should be organized to minimize view impacts from the freeway and elevated areas.*

EDG: The Board said that the roof would be considered as a 'fifth façade' – the design team should study ways of incorporating it into the overall building design; while keeping it "light and whimsical."

ARCH's DR: The building top has provided changes in materials and by projecting fins forming sun-screens for the upper residences. The roofscape has been kept clean, with few projections. A recessed light court serving the top floor will provide for plantings to be seen from above.

DEVELOPMENT STANDARD DEPARTURE Matrix			
DEVELOPMENT STANDARD	**REQUEST/ PROPOSAL**	**JUSTIFICATION**	**Board's Recommendation**
SMC 23.48.020.A Quantity of Residential Amenity Area: Gross area in residential use: 89,948 SF Required Residential Amenity area: 4,497 SF (5% of gross floor area in residential use)	The applicant is requesting that the project provide 2,650 SF (2.95% of gross floor area in residential use) instead of 4,497 SF.	The additional massing along Harrison Street to emphasize its "Heart Location" eliminates previously proposed 4th floor roof terrace. All units have access to personal outdoor space – roofs, terraces, etc.	Approval of the design based on *Guidelines— A1, A2, A5, A6, A10, B1, C1 and C2.*

BOARD RECOMMENDATION[1]

The Board expressed approval of the design, noting that it respected the Harrison Street pedestrian orientation and the industrial/commercial character of South Lake Union. Board members thought the entry particularly strong.

The Board discussed and approved the requested departure to reduce the required residential amenity area.

The Board proposed and approved a second departure, should the design team decide to use it. The departure would allow the design team to raise the projecting bays above the upper level setback limit, if the design team was of the opinion that taller bays would improve façade proportions and result in a better project.

After considering the proposed design and the projects context, hearing public comment, and reconsidering the previously stated design priorities, the Design Review Board members agreed that the design has successfully addressed the design guidance provided in their previous meeting. The Design Review Board **recommends approval** of the design as shown in the updated Master Use Permit Plans. *(Based on Guidelines — A1, A2, A5, A6, A10, B1, C1 and C2.)* The identification of these particular guidelines does not imply that other, nonprioritized guidelines may not be called upon in the ultimate decision-making regarding this proposal.

DECISION – DESIGN REVIEW

The Director of DPD has reviewed the recommendations of the Design Board members present at the final Design Review recommendation meeting and finds that the Board acted within its authority and the Board's recommendations are consistent with the ***City of Seattle Design Review: Guidelines for Multifamily & Commercial Buildings*** *(November 1998)* and the ***South Lake Union Design Guidelines*** *(May 26, 2005).*

Therefore, the proposed design and departures are **APPROVED** as presented at the May 3, 2006 Design Review Board meeting. This approval is final unless subsequent comment and reconsideration of the Decision causes the Director to take further action, which would be published pursuant to the City's requirements.

CONDITIONS – DESIGN REVIEW are noted at the end of this decision.

ANALYSIS – SEPA

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

This analysis relies on the ***Environmental Checklist for the proposed Ninth and Harrison Mixed-Use Development*** submitted by the applicant on February 16, 2006 and annotated by the Land Use Planner. The information in the checklist (that discloses the potential impacts from this project), supplemental information provided by the applicant, project plans, public comments, including those submitted by Ivey Imaging in April 5 and August 24, 2006, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

[1] Attending Board members—Maria Barrientos, Patrick Doherty, Chris Kirk, Matt Roewe, and Bill Vanderventer.

The Seattle SEPA ordinance provides substantive authority to require mitigation of adverse impacts resulting from a project (SMC 25.05.655 and 25.05.660). Mitigation, when required, must be related to specific adverse environmental impacts identified in an environmental document and may be imposed only to the extent that an impact is attributable to the proposal. Additionally, mitigation may be required only when based on policies, plans, and regulations as enunciated in SMC 25.05.665 to SMC 25.05.675, inclusive, (SEPA Overview Policy, SEPA Cumulative Impacts Policy, and SEPA Specific Environmental Policies). In some instances, local, state, or federal requirements will provide sufficient mitigation of a significant impact and the decision maker is required to consider the applicable requirement(s) and their effect on the impacts of the proposal.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states in part: "*where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation*," subject to some limitations. Under specific circumstances (SMC 25.05.665 D 1-7) mitigation can be required.

The policies for specific elements of the environment (SMC 25.05.675) describe the relationship with the Overview Policy and indicate when the Overview Policy is applicable. Not all elements of the environment are subject to the Overview Policy (e.g., Traffic and Transportation). A detailed discussion of some of the specific elements of the environment and potential impacts is appropriate.

Short-term Impacts

The following temporary or construction-related impacts are expected; decreased air quality due to suspended particulates from demolition and building activities and hydrocarbon emissions from construction vehicles and equipment; increased traffic and demand for parking from construction equipment and personnel; increased noise; and consumption of renewable and non-renewable resources.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. The Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction. Puget Sound Clean Air Agency (PSCAA) regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures in general. Finally, the Noise Ordinance regulates the time and amount of construction noise that is permitted in the City.

Most short-term impacts are expected to be minor. Compliance with the above applicable codes and ordinances will reduce or eliminate most adverse short-term impacts to the environment. However, impacts associated with air quality, noise, and construction traffic warrant further discussion.

Air Quality

The Puget Sound Clean Air Agency (PSCAA) regulations require control of fugitive dust to protect air quality and will require permits for removal of asbestos or other hazardous substances during demolition. The applicant will take the following precautions to reduce or control emissions or other air impacts during construction:

- *During demolition, excavation and construction, debris and exposed areas will be sprinkled as necessary to control dust; and truck loads and routes will be monitored to minimize dust-related impacts.*
- *Using well-maintained equipment and avoiding prolonged periods of vehicle idling will reduce emissions from construction equipment and construction-related trucks.*
- *Using electrically operated small tools in place of gas powered small tools wherever feasible.*
- *Trucking building materials to and from the project site will be scheduled and coordinated to minimize congestion during peak travel times associated with adjacent roadways.*

Typical air quality impacts during construction may have some impact on the building to the immediate north, which has a ventilation air intake near the project site. To alleviate dust impacts to this intake/building, the applicant has volunteered to install duct work or a filter that will mitigate air quality impacts to the neighboring building.

Noise

The project is expected to generate loud noise during demolition, grading and construction. Compliance with the Noise Ordinance (SMC 25.08) is required and will limit the use of loud equipment registering 60 dBA (not including construction equipment exceptions in SMC 25.08.425) or more at the receiving property line or 50 feet to the hours between 7:00 a.m. and 10:00 p.m. on weekdays, and between 9:00 a.m. and 10:00 p.m. on weekends and holidays. This condition may be modified by DPD to allow work of an emergency nature or allow low noise interior work after the exterior of the structure is enclosed. This condition may also be modified to permit low noise exterior work (e.g., installation of landscaping) after approval from DPD. Construction noise is within the parameters of SMC 25.05.675.L, which states that the Noise Ordinance provides sufficient mitigation for most noise impacts.

Traffic and Circulation

Site preparation would involve removal of the existing asphalt pavement and excavation for the foundation of the proposed building and below grade parking garage. Approximately 25,000 cubic yards of material would be excavated and removed from the site. Existing City code, Regulating the Kind and Classes of Traffic on Certain Streets (SMC 11.62) designates major truck streets which must be used for hauling and otherwise regulates truck traffic in the city. The proposal site has relatively direct access to both Highway 99 and Interstate 5 and traffic impacts resulting from the truck traffic associated with grading will be of short duration and mitigated by enforcement of SMC 11.62.

Traffic control would be regulated through the City's street use permit system, and a requirement for the contractor to meet all City regulations pertaining to the same. Temporary sidewalk or lane closures may be required during construction. Any temporary closures of sidewalks would require the diversion of pedestrians to other sidewalks. The timing and duration of these closures would be coordinated with SDOT to ensure minimal disruptions.

A neighbor that occupies several buildings adjacent to the project site has expressed concerns regarding joint use of the alley during construction. The neighbor has loading docks on the shared alley. Also, the neighbor uses the alley as a means of access between its various buildings. The City's SEPA policies expressly provide for mitigation of temporary construction impacts, such as those from this project. SMC 25.05.675.B. These policies are in addition to Seattle laws, including the Street Use Ordinance at Chapter 15.22 SMC, that address project construction impacts. The alley is a public way, intended to be used and shared jointly by the various adjacent sites. Sharing the alley among various permitted uses of typical size and impact for the zone, including the proposed project, requires some flexibility.

However, to ensure that potential project construction traffic impacts are minimized, the Applicant will need to work with the Department and SDOT in implementing appropriate mitigation measures. Compliance with Seattle's Street Use Ordinance administered by SDOT includes a construction impact management plan and is expected to mitigate adverse impacts during construction of this project. Such plans address construction staging, truck routes for hauling excavated material and supplies to and from the site, and construction worker parking. In addition, the plan shall include means to limit the impact of construction on existing uses in the alley including without limitation: discourage construction staging in the alley; preserve vehicular access to alley loading docks, except for limited periods with advance notice to dock owners; and minimize construction-related use of the alley that conflicts with existing business activities. During the widening of the alley adjacent to the project, some disruption to loading dock operation of neighboring uses sharing the alley could occur; however this will be minimized through appropriate sequencing of construction activities such that access to the north or south in the alley is maintained and that loading dock access is only temporarily blocked for limited periods during alley widening.

Vibration

The neighbor expressed concern regarding the potential vibration impacts of the project construction on their imaging processes and equipment in buildings adjacent to the project site. Michael R. Yantis and Noel R. Frederick ("consultants"), qualified experts in the measurement and analysis of vibration impacts, studied the situation. The consultants' report and resumes have been submitted to the project file. In their report, the consultants conclude that the construction activity is not expected to have a significant adverse impact on the neighbor's processes or equipment.

The consultants conducted a test at the site, creating vibration impacts on the construction site and measuring those impacts inside the closest Ivey building. The results of the test showed that the expected vibration would be well within acceptable levels for typical commercial uses. These results were confirmed by measurements that the consultants took at another nearby construction site involving similar construction activity. Thus, there will be no probable significant adverse vibration impact on the neighbor's equipment and processes. Therefore, no conditioning of the project is necessary based on vibration impacts.

Long-term Impacts – Use-Related Impacts

Historic

There are no known or listed historical resources or any officially-designated historical resources on the project site. Designated historic structures within the general vicinity of the site include: the West Earth Co. Clock (2 blocks west); the former New Richmond Laundry Building (5 blocks east of the project site); Immanuel Lutheran Church (5 blocks east); St. Spiridon Russian Orthodox Cathedral (7 blocks east); The Seattle Times Building (4 blocks southeast); Troy Laundry Building (4 blocks east); Norway Hall (5 blocks southeast); and the C.B. Van Vorst Building (3 blocks east). The Proposed Action is not expected to have any impact on any of these designated historic structures.

Land Use

The proposed project is consistent with the *City of Seattle Comprehensive Plan*, the *South Lake Union Neighborhood Plan*, and the Land Use Code.

Removal of the current use, a surface parking lot of 82 spaces, may result in a minor parking displacement impact. The January 2006 Transpo Analysis submitted as Appendix A to the Environmental Checklist states that the current surface parking lot is underutilized, with less than 15 percent of the spaces occupied during midday weekday observation. This utilization rate is approximately 12 to 13 vehicles (15 percent of 82 stalls). There is sufficient on- and off-street parking in the vicinity to accommodate this displacement. No mitigation is necessary to offset this minimal impact.

Archaeological

There is no surficial evidence to indicate that any archaeologically significant resources exist on-site and would be disturbed by the project. However, the Seattle Commons EIS stated that archaeological "resources would likely be located in a historical fill zone ranging from approximately one to four blocks wide along the alignment of Westlake Avenue; a wider fill zone is near the lakeshore of Lake Union."

If resources of potential archaeological significance are encountered during excavation or construction associated with the Proposed Action, the following measures would apply:

- work that is occurring in the portion of the site where potential archaeological resources are found would be stopped immediately;
- the City of Seattle land use planner that is assigned to the project and the Washington State Archaeologist at the State Office of Archaeology and Historic Preservation (OAHP) would immediately be contacted; and
- regulations would be adhered to pertaining to discovery and excavation of archaeological resources, including but not limited to, Chapters 27.34, 27.53, 27.44, 79.01 and 79.90 RCW and Chapter 25-48 WAC, as applicable or as revised.

Otherwise, the project will not have any significant adverse impacts on archaeological resources.

Housing Impacts

The City's SEPA policies encourage preservation of existing housing, especially low income housing. SMC 25.05.675.I. These policies require compliance with City Code provisions on housing relocation, demolition, and conversion for proposed development to be in compliance with the housing policy. SMC 25.05.675.I.2.C. The proposed project will demolish a parking lot and replace it with market rate housing. No existing housing will be demolished, relocated, or converted. Therefore, no mitigation to housing impacts is required.

Traffic and Transportation

The Environmental Checklist includes a Transportation Impact Analysis prepared by The Transpo Group. Checklist pp. 32-34 and Appendix A. This report evaluates existing traffic conditions in the study area, estimates the total amount of new traffic to be generated by this project, and evaluates the impact of these new trips on the level-of-service of intersections in the study area. The Transpo Analysis includes projected impacts from twenty-one "pipeline" projects identified by DPD as development that will generate additional traffic volume in the vicinity of the project.

In project year 2009, the project will generate approximately 270 new daily vehicle trips to the surrounding street system, including 20 during the AM peak hour and 30 during the PM peak hour. The project will increase traffic volumes at nearby intersections by less than one percent to roughly four percent during the PM peak hour, with higher percentage increases typically occurring at intersections with currently lower traffic volumes that are closer to the project. Of twenty-nine intersections studied, the project generated impacts of less than one percent at 26 intersections during the AM peak hour and 25 during the PM peak hour. At each of the studied locations, the impact is below five percent, falling in the range of unnoticeable daily traffic fluctuation.

During both the AM and PM peak hours, there would be no change in level of service (LOS) at any of the studied intersections with and without the addition of traffic generated by the project.

The neighbor expressed concern regarding potential long-term conflicts between vehicles entering and exiting the parking garage via the alley and the neighbor's trucks and employees using the alley nearby. The neighbor has several loading docks on the alley, one of which is across the alley from the proposed parking garage entrance/exit. A truck parked at this loading dock blocks alley access from the south, however access to the proposed parking garage would still be available from the north. City policy supports parking access from alleys, even though alleys are shared by multiple users. There is an expectation that potential conflicts between different alley users may occur and cooperation between users is required to minimize the conflicts. Peak business hours for the loading docks would generally be during business hours (approximately 8:00 AM – 5:00 PM) while peak driveway activity for the residential project is expected to be outside business hours (before 8:00 AM and after 5:00 PM). These different peak hours should help minimize the number of conflicts between alley users.

Transportation Concurrency

The City of Seattle has implemented a Transportation Concurrency system to comply with one of the requirements of the Washington State Growth Management Act (GMA). The system, described in DPD's Director's Rule 4-99 and the City's Land Use Code is designed to provide a mechanism that determines whether adequate transportation facilities would be available "concurrent" with proposed development projects. The five evaluated screen-lines included in the Transpo analysis would all continue to operate below the concurrency threshold with construction of the project.

Transportation Mitigation

In July 2004, the Seattle Department of Transportation completed the South Lake Union Transportation Study with the help of consultants Parsons Brinckerhoff and Envirolssues. The study recommended a package of transportation improvements for the South Lake Union area which has broad support from a diverse group of neighborhood, business and community representatives. The improvements include a two-way Mercer Street, a narrower Valley Street, a streetcar, and a number of transit, pedestrian and bicycle measures. These improvements are intended to reconnect the South Lake Union area to the city, untangle streets that create barriers in the middle of the city, improve mobility, promote alternatives to single-occupant-vehicles, and continue a smooth flow of freight and people through the area.

As an alternative to mitigation measures that focus solely on minor improvements to nearby streets and intersections, DPD has determined that a more effective mitigation approach is for the applicant to contribute to the costs of the more comprehensive transportation improvements recommended in the South Lake Union Transportation Study. DPD has reviewed the projected transportation impacts of the project, as detailed in the January 2006 Transpo Analysis, and concluded that the transportation improvements in the South Lake Union Transportation Study would adequately mitigate those impacts.

DPD has considered the share of the transportation improvement costs that should be borne by this project. A portion of the improvement costs is attributable to existing deficiencies and must be funded with resources other than private developer mitigation payments. This project should bear its fair share of the remaining costs, based on the expected trip generation. Based on DPD's analysis of costs and allocation to this project, a payment of $41,994 is appropriate.

Parking

The proposed development will provide approximately 105 parking spaces, including 11 spaces on level 1 and 94 spaces in a below-ground garage. Based on the Seattle Parking Code and Land Use Code, the proposed development is required to provide 99 parking spaces for the development, i.e., one space for each multi-family dwelling unit in the Seattle Mixed zone. SMC 23.54.015 Chart A. Retail uses smaller than 2,500 sq. ft. are not required to provide parking.

According to the January 2006 Transpo Analysis (Environmental Checklist Appendix A) as supplemented by a letter from Transpo to DPD dated July 17, 2006, peak parking demand for this project will be 106 spaces. This is expected to result in an on-site parking shortfall of six parking spaces assuming a practical capacity of 95 percent. Practical capacity accounts for the efficiency lost by vehicles circulating the garage in search of a vacant stall. The on-site parking shortfall would occur during the overnight peak period for residential demand, between 11:00 PM and 6:00 AM. There is sufficient on and off-site parking supply available in the project vicinity to meet the excess parking demand.

The project will eliminate a surface parking lot of approximately 82 spaces. As noted in the Transpo Analysis, the parking lot is utilized less than 15 percent at peak utilization during the day. As a result, the actual number of displaced parkers will be approximately 12 occupied spaces. There is sufficient parking supply available in the project vicinity within walking distance.

DECISION – STATE ENVIRONMENTAL POLICY ACT (SEPA)

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[**X**] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).

The proposed action is **APPROVED WITH CONDITIONS**. The Director will reconsider the DNS in light of timely comments received during the 14 day comment period and may take appropriate further action. However, there will be no further notice unless the Director takes further action pursuant to her reconsideration.

CONDITIONS – SEPA

Prior to the Phase One Building Permit Issuance

1. Install ductwork or filter on Ivey Imaging intake on 427 Eighth Avenue North Building to mitigate air quality impacts.
2. The applicant shall submit for review and approval a Construction Impact Management Plan to the Department of Planning and Development for concurrent review and approval with Seattle Department of Transportation. The plan shall identify management of construction activities including construction hours, parking, traffic and issues concerning street and sidewalk closures. The plan shall include means to limit the impact of construction on existing uses in the alley including without limitation: discourage construction staging in the alley; preserve vehicular access to alley loading docks except for limited periods with advance notice to the dock owners; and minimize construction-related use of the alley that conflicts with existing business activities.

During Construction (including Excavation and Demolition)

The following condition(s) to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

3. The applicant will be required to limit the hours of construction activity not conducted entirely within an enclosed structure to non-holiday weekdays between 7:30 a.m. and 6:00 p.m. and on Saturdays between 9:00 a.m. and 6:00 p.m. The Director may consider approving construction activity outside these time restrictions so long as the activity complies with the City's noise ordinance. (Work would not be permitted on the following holidays: New Years Day, Martin Luther King Jr.'s Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day following Thanksgiving Day and Christmas Day.)
4. Comply with the limitations contained in the approved construction-phase transportation plan.
5. Debris and exposed areas shall be sprinkled as necessary to control dust; and truck loads and routes shall be monitored to minimize dust-related impacts.
6. Use well-maintained equipment to reduce emissions from construction equipment and construction-related trucks and avoid prolonged periods of vehicle idling.
7. Use electrically operated small tools in place of gas powered small tools wherever feasible.
8. Trucking building materials to and from the project site shall be scheduled and coordinated to minimize congestion during peak travel times associated with adjacent roadways.
9. If resources of potential archaeological significance are encountered during excavation or construction associated with the Proposed Action, the following measures will apply:
    - work that is occurring in the portion of the site where potential archaeological resources are found must be stopped immediately;
    - the City of Seattle land use planner that is assigned to the project and the Washington State Archaeologist at the State Office of Archaeology and Historic Preservation (OAHP) must immediately be contacted; and regulations must be adhered to pertaining to discovery and excavation of archaeological resources, including but not limited to, Chapters 27.34, 27.53, 27.44, 79.01 and 79.90 RCW and Chapter 25-48 WAC, as applicable or as revised.

Prior to the Phase Two Building Permit Issuance

10. The applicant shall pay a transportation mitigation fee of $41,994 to SDOT, to be apportioned among South Lake Union transportation projects[2].

[2] As identified by Transpo's analysis of costs and allocations for this project.

NON-APPEALABLE CONDITIONS – DESIGN REVIEW

11. The proponent must retain the landscaping, fenestration, architectural features and elements, and arrangement of finish materials and colors presented to the Design Review Board on May 3, 2006. Compliance with all images and text on the MUP drawings, design review meeting guidelines and approved design features and elements (including exterior materials and landscaping) shall be verified by Colin R. Vasquez, Senior Land Use Planner, 206-684-5639, or by Vincent T. Lyons, Design Review Manager, 206-233-3823 at a Pre-Construction meeting.
12. Any proposed changes to the exterior of the building or the site or must be submitted to DPD for review and approval by Colin R. Vasquez, Senior Land Use Planner, 206-684-5639, or by Vincent T. Lyons, Design Review Manager, 206-233-3823. Any proposed changes to the improvements in the public right-of-way must be submitted to DPD and SDOT for review and for final approval by SDOT.
13. An appointment with the assigned Land Use Planner must be made at least (3) working days in advance of the meeting. The Land Use Planner will determine whether submission of revised plans is required to ensure that compliance has been achieved. Embed updated colored elevation drawing in MUP plans and all subsequent Building Permit Plans.
14. Embed all of these conditions in the cover sheet for the MUP permit and for all subsequent permits including updated MUP plans, and all building permit drawings. Call out on the appropriate plan sheets where and what departures have been granted.

Signature: (signature on file) Date: September 11, 2006
Colin Vasquez, Land Use Planner
Department of Planning and Development

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